***HON'BLE SRI JUSTICE GODA RAGHURAM***

***WRIT PETITION NO. 8672 OF 1997***

Between:

V.S.Babu S/o Late Shri V. Subramanya Jetty aged about 37 years

...Petitioner

AND

1. The Executive Officer, Tirumala Tirupathi Devasthanam, Tirupathi

.....Respondent

***HON'BLE SRI JUSTICE GODA RAGHURAM***

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***ORAL ORDER:***

The respondent Tirumala Tirupathi Devasthanam, Tirupathi (for short "TTD"), notified one post of 'Offset Assistant' in the establishment of the TTD press, reserved for BC-A category. Normally the concerned District Employment Exchange, ought to be requisitioned to sponsor candidates for backlog posts. When the respondent approached the local employment exchange, it was informed that there were no eligible candidates on the rolls of the exchange. Therefore, the respondent notified the post of Offset Assistant, reserved for BC-A category in the daily papers calling for applications. The notification was issued on 18.11.1986 clearly stipulating that it is for a solitary post of Offset Assistant for the BC-A category and that the candidates must have passed the SSC or an equivalent examination. The petitioner applied, was called for a written examination and interview, which was conducted on 14.3.1997 and then by an order dated 11.3.1997 was temporarily appointed in the post of 'Office Assistant' in a stipulated scale of pay. It requires to be noticed that the petitioner was the second candidate who was issued the order and as a temporary candidate. From the appointment order it appears that in G.O.Ms.No. 392, Revenue (Endts.III) Department dated 6.5.1991, two posts of Offset Assistants were sanctioned but, only one post was notified, reserved for BC-A category.

The order of temporary appointment dated 11.3.1997 reads that the petitioner (second candidate) was posted to a vacancy caused due to the promotion of one Sri C. Sreedhar Reddy, Offset Assistant, as S.O.P, TTD press. In the resultant vacancy, the petitioner was accommodated by way of a temporary appointment notwithstanding the fact that in terms of the notification only one appointment could be made. On 12.3.1997 the petitioner joined duty as Offset Assistant pursuant to the order of appointment.

A short while thereafter, by the impugned order dated 29.4.2007, the respondent terminated the services of the petitioner on the ground that it is no longer required. Hence, the Writ Petition.

In the Writ Petition except alleging extraneous considerations as being the basis of the order of termination and pleading that he had obtained the employment after resigning the earlier post in the private service and is therefore, deprived of his livelihood, no other allegations have been asserted to challenge the order of termination. The petitioner initially canvassed the legal position that since he was regularly appointed after following the due process, he could not have been terminated without affording an opportunity.

On principle and in the factual circumstances, the petitioner is not entitled to the relief sought since he was appointed as a second candidate. Only one post was notified and that too reserved for the BC-A category. The order of his appointment stipulates that it is a temporary appointment terminable at will without notice.

The respondent filed a counter affidavit in June 1997 stating that the temporary appointment of the petitioner was erroneous, as the only one post was notified and the selection Committee should have selected only one person and not the second candidate. As the respondent-appointing authority had failed to notice this error of the selection Committee and had issued the order of appointment erroneously, this was rectified subsequently is the case of the respondent. The respondent also contends that as the order is temporary and liable for termination without notice or opportunity, an order of termination simplicitor was issued and such an order suffers from no infirmity warranting interference.

Later the petitioner filed two applications WPMP No. 20296 of 1998 and WPMP No. 20297 of 1998, one for seeking impleadment of Sri B. Reddappa, as second respondent to the Writ Petition and the other for amendment of the prayer to impeach the appointment of Sri B. Reddappa, as Offset Assistant against the BC-A vacancy, as illegal and for its invalidation. In the affidavit filed in the accompanying application, the petitioner pleads that Sri B. Reddappa does not belong to the BC-A category and therefore was not eligible to be appointed as Offset Assistant to a vacancy notified as reserved for BC-A candidate.

This court on 25.6.1998 directed notices on two applications. In WPMPNo. 20296 of 1998 (seeking impleadment of B. Reddappa), notices were served but in W.P.M.P.No. 20297 of 1998 (seeking amendment), the notice could not be served as the petitioner had failed to pay the batta for issuance of notice. This is the factual position. As on date, in any event neither of the applications had been ordered.

Responding to the allegation that Sri B. Reddappa did not belong to BC-A community, the respondent filed another counter affidavit. In this counter, to refute the petitioner's allegation that Sri B. Reddappa did not belong to BC-A category, it is asserted that Sri B. Reddappa was an in-service candidate, had secured higher marks and did belong to BC-A, and also that the petitioner does not belong to BC-A category as he is an outsider, viz., belongs to Karnataka State, (therefore in so far as the Andhra Pradesh State is concerned, he belongs to an unreserved category).

The petitioner has not filed any affidavit in refutation of assertions in either of the counter affidavits filed on behalf of the sole respondent. In view of this non-traverse of the assertions in the counter affidavits, the assertions therein must be considered as un-refuted. As the petitioner does not belong to BC-A category, he is ineligible to be

appointed to the sole post of Offset assistant reserved for the BC-A category. In any event, as none of the two applications latter filed by the petitioner, WPMP Nos. 20296 of 1998 and 15769 of 2007, for impleadment of Sri B. Reddappa and for setting aside the order dated 7.3.2007 in W.P.No. 8672 of 1997 have been ordered, the petitioner cannot claim the substantive relief. The petition filed for amendment of prayer is dismissed.

There are thus no merits in the Writ Petition and accordingly, the Writ Petition is dismissed. No order as to costs.

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GODA RAGHURAM, J

Date: 27.6..2007
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